

SUBSTITUTE FOR  
SENATE BILL NO. 664

A bill to amend 1975 PA 148, entitled  
"Debt management act,"  
by amending sections 2, 3, 4, 5, 6, 8, 11, 12, 13, 14, 15, 16,  
17, 18, 19, and 22 (MCL 451.412, 451.413, 451.414, 451.415,  
451.416, 451.418, 451.421, 451.422, 451.423, 451.424, 451.425,  
451.426, 451.427, 451.428, 451.429, and 451.432).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2. As used in this act:

2       (a) ~~"Bureau" means the corporation and securities bureau of~~  
3 ~~the department of commerce~~ "BUSINESS OF DEBT MANAGEMENT" MEANS  
4 PROVIDING OR OFFERING TO PROVIDE DEBT MANAGEMENT TO 1 OR MORE  
5 RESIDENTS OF THIS STATE.

6       (b) "Counselor" means an employee or agent of a licensee who  
7 engages in ~~scheduling,~~ counseling ~~,~~ and budget analysis  
8 functions AND SCHEDULING OF DEBTOR'S FUNDS.

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1 (c) "Creditor" means a person for whose benefit ~~moneys are~~  
2 MONEY IS being collected and disbursed by a licensee. ~~The~~ A  
3 licensee is not a creditor for purposes of this act.

4 (d) "Debt management" means the planning and management of  
5 the financial affairs of a debtor and the receipt of ~~funds~~  
6 MONEY from the debtor for distribution to ~~creditors~~ A CREDITOR  
7 in payment or partial payment of the debtor's obligations.

8 (e) "Debtor" means a person from whom ~~moneys are~~ MONEY IS  
9 being collected for the benefit of ~~creditors~~ A CREDITOR of the  
10 debtor.

11 (f) "Department" means the department of ~~commerce~~ CONSUMER  
12 AND INDUSTRY SERVICES.

13 (g) "Director" means the director of the department ~~of~~  
14 ~~commerce~~ or his OR HER authorized representative.

15 (h) "Fees and charges of the licensee" means the total  
16 amount of money to be charged a debtor by the licensee, including  
17 the \$25.00 initial payment AND ANY CHARGES FOR ADVICE, MATERIALS,  
18 OR REFERRALS.

19 (i) "License" means a written certificate or exemption order  
20 issued by the director.

21 (j) "Licensee" means ~~an individual, partnership, unincor-~~  
22 ~~porated association, or corporation~~ A PERSON licensed under this  
23 act TO PERFORM DEBT MANAGEMENT SERVICES AND LOCATED INSIDE OR  
24 OUTSIDE THE BOUNDARIES OF THIS STATE. ~~Except as to sections~~  
25 ~~5(1), 5(3), or 8, a licensee includes a person exempted pursuant~~  
26 ~~to section 4(2) or (4).~~

1 (k) "Office" means each location by street name, building  
2 number, city, and state where a person engages in the BUSINESS OF  
3 debt management. ~~business.~~

4 (l) "Office manager" means an employee or owner charged with  
5 the supervision, oversight, or approval of the functions of  
6 budget analysis, counseling, or scheduling.

7 (m) "Person" means an individual, ~~a~~ corporation, ~~a~~ part-  
8 nership, ~~an~~ association, ~~a~~ joint stock company, ~~a~~ trust  
9 where the interests of the beneficiaries are evidenced by a  
10 security, LIMITED LIABILITY COMPANY, or ~~an unincorporated~~  
11 ~~organization~~ OTHER LEGAL ENTITY.

12 (N) "SWEEP ARRANGEMENT" MEANS AN ARRANGEMENT THAT PROVIDES  
13 FOR A TEMPORARY OR PERMANENT TRANSFER OF FUNDS FROM 1 TRUST  
14 ACCOUNT TO ANOTHER TRUST ACCOUNT WHEN A PREDETERMINED TIME,  
15 ACCOUNT BALANCE, OR OTHER CONDITION OCCURS OR IS FULFILLED.

16 Sec. 3. (1) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (2), A  
17 person engaged in the business of debt management ~~shall be~~  
18 ~~deemed to be~~ IS rendering a financial planning service  
19 ~~requiring a debt management~~ AND MUST OBTAIN A license ~~or~~  
20 ~~exemption, but this provision shall~~ UNDER THIS ACT.

21 (2) SUBSECTION (1) DOES not apply to the following when  
22 engaged in the regular course of their respective businesses and  
23 professions:

24 (a) ~~Attorneys~~ AN ATTORNEY at law, IF PROVIDING DEBT MAN-  
25 AGEMENT ADVICE INCIDENTAL TO HIS OR HER LAW PRACTICE.

26 (B) A CERTIFIED PUBLIC ACCOUNTANT, IF PROVIDING DEBT  
27 MANAGEMENT ADVICE INCIDENTAL TO HIS OR HER ACCOUNTING PRACTICE.

(C) A CERTIFIED FINANCIAL PLANNER. IF PROVIDING DEBT MANAGEMENT  
ADVICE INCIDENTAL TO HIS OR HER BUSINESS.

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1       (D) ~~(b) Banks, fiduciaries, savings and loan institutions,~~  
2 ~~and credit unions, as~~ A BANK, FIDUCIARY, SAVINGS AND LOAN INSTI-  
3 TUTION, OR CREDIT UNION duly authorized and admitted to transact  
4 business in this state and performing credit and financial  
5 adjusting service in the regular course of ~~their~~ ITS principal  
6 business.

7       (E) ~~(c) Title insurers and abstract companies~~ A TITLE  
8 INSURER OR ABSTRACT COMPANY, while doing an escrow business.

9       (F) ~~(d) Employees and agents of licensees or exempt~~  
10 ~~persons~~ AN EMPLOYEE OR AGENT OF A LICENSEE, acting solely in the  
11 capacity of agent for the licensee. ~~or exempt person.~~

12       (G) ~~(e) Judicial officers or others~~ A JUDICIAL OFFICER OR  
13 PERSON acting under court ~~orders~~ ORDER.

14       Sec. 4. ~~(1)~~ After January 1, 1976, a person LOCATED  
15 WITHIN OR OUTSIDE OF THE BOUNDARIES OF THIS STATE shall not  
16 engage in the business of debt management without first obtaining  
17 a license ~~or exemption order~~ as required in this act. A con-  
18 tract of debt management as defined by this act made by ~~an~~  
19 ~~unlicensed~~ A person ~~shall be~~ WITHOUT A LICENSE IS null and  
20 void.

21       ~~(2) Nonprofit corporations, tax exempt pursuant to section~~  
22 ~~501(c) of the Internal Revenue Code of 1954, as amended, being 26~~  
23 ~~U.S.C. section 501, formed to advise, counsel, educate, and~~  
24 ~~assist individuals in solving their financial difficulties by~~  
25 ~~budgeting their incomes and expenses and effecting an orderly~~  
26 ~~program for payment of their obligations, may be granted an~~  
27 ~~annual exemption order from any requirement of this act. The~~

~~1 exemption applicant shall file with the bureau annually or before  
2 December 1, an exemption application in the form prescribed by  
3 the administrator, an annual exemption application fee of \$50.00  
4 plus \$50.00 per regular branch office in excess of 1 home office  
5 in this state, and an adequate surety bond or other acceptable  
6 deposit of cash, securities, or assignment of coverage or other  
7 bonds in lieu of surety bond, if the director is satisfied that  
8 comparable or more extensive coverage results. The exemption  
9 provided by this subsection shall expire on December 31 of each  
10 year.~~

~~11 (3) A person who is performing a debt management service  
12 without receiving compensation or other remuneration from the  
13 debtor or creditor, upon a showing of experience, character, and  
14 general fitness to perform the service fairly and honestly and  
15 upon a showing of safeguards in the handling of debtor funds, may  
16 be granted an exemption order from any provision of this act.~~

~~17 (2) (4) A person who is performing a debt management serv-  
18 ice and receiving compensation primarily from governmental organ-  
19 izations, governmentally sponsored organizations, charitable  
20 trusts, or foundations tax exempt pursuant to section 501(c) of  
21 the Internal Revenue Code of 1954, as amended INTERNAL REVENUE  
22 CODE OF 1986, upon a showing of safeguards in the handling of  
23 debtor funds, may be granted an exemption from any provision of  
24 this act if the exemption is found to be in the public interest.~~

~~25 Sec. 5. (1) A person desiring to obtain a license to  
26 engage in the debt management business in this state shall file  
27 with the department an application in writing, under oath,~~

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~~1 setting forth the person's business name, the exact location of  
2 the person's office, the names and addresses of the officers and  
3 directors if an association or a corporation, and if a partner=  
4 ship, the partnership name and the names and addresses of the  
5 partners, a copy of the certificate of assumed name or certifi=  
6 cate of partnership or articles of incorporation, and such addi=  
7 tional data as the director prescribes by rule or order. At the  
8 time of filing the application the applicant shall pay to the  
9 department a license fee of \$50.00 for each office and an inves=  
10 tigation fee of \$50.00. At the time of filing the application  
11 the applicant shall furnish a surety bond to the people of the  
12 state of Michigan in a sum equivalent of \$5,000.00 for each busi=  
13 ness office maintained by the licensee, conditioned upon the  
14 faithful accounting of all moneys collected upon accounts  
15 entrusted to a licensee engaged in debt management, and the  
16 licensee's employees and agents. The bond shall be approved by  
17 the director and filed in the office of the bureau. A person,  
18 firm, or corporation shall not engage in the business of debt  
19 management until a good and sufficient bond is filed in accord=  
20 ance with this act. The bureau may by rule provide for an appro=  
21 priate deposit of cash, securities, or the assignment of the cov=  
22 erage of other surety bonds in lieu of the debt management bond  
23 if the director is satisfied that comparable or more extensive  
24 coverage results. AN APPLICANT FOR A LICENSE TO ENGAGE IN THE  
25 BUSINESS OF DEBT MANAGEMENT SHALL FILE AN APPLICATION WITH THE  
26 DIRECTOR IN WRITING AND UNDER OATH THAT INCLUDES ALL OF THE  
27 FOLLOWING:~~

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1 (A) THE NAME AND EXACT ADDRESS OF THE APPLICANT AND THE NAME  
2 AND ADDRESS OF EACH OF THE FOLLOWING, AS APPLICABLE:

3 (i) IF THE APPLICANT IS A CORPORATION, ITS OFFICERS AND  
4 DIRECTORS.

5 (ii) IF THE APPLICANT IS AN ASSOCIATION, ITS OFFICERS AND  
6 DIRECTORS.

7 (iii) IF THE APPLICANT IS A PARTNERSHIP, ITS PARTNERS.

8 (iv) IF THE APPLICANT IS A LIMITED LIABILITY COMPANY, ITS  
9 MANAGER OR MANAGERS.

10 (v) IF THE APPLICANT IS ANY OTHER LEGAL ENTITY, ITS MANAGER  
11 OR OTHER PERSON DESIGNATED TO CONTROL THE OPERATION OF THAT LEGAL  
12 ENTITY.

13 (B) A COPY OF A CERTIFICATE OF AN ASSUMED NAME, IF  
14 APPLICABLE.

15 (C) ONE OR MORE OF THE FOLLOWING, AS APPLICABLE:

16 (i) IF THE APPLICANT IS A CORPORATION, A COPY OF THE ARTI-  
17 CLES OF INCORPORATION.

18 (ii) IF THE APPLICANT IS AN ASSOCIATION, A COPY OF THE ORGA-  
19 NIZATIONAL DOCUMENTS OF THE ASSOCIATION.

20 (iii) IF THE APPLICANT IS A PARTNERSHIP, A COPY OF THE PART-  
21 NERSHIP AGREEMENT.

22 (iv) IF THE APPLICANT IS A LIMITED LIABILITY COMPANY, A COPY  
23 OF THE ARTICLES OF ORGANIZATION.

24 (2) ~~A licensee shall submit for approval concurrently with~~  
25 ~~this application a blank copy of the form of contract to be used~~  
26 ~~between the debtor and the licensee, the budget analysis form,~~  
27 ~~and the creditor's agreement form that shall be used and shall~~

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1 ~~submit to the bureau for approval all changes and amendments~~  
2 ~~thereto. A contract or form may not be used without the approval~~  
3 ~~of the bureau.~~ UPON FILING THE APPLICATION, THE APPLICANT SHALL  
4 DO ALL OF THE FOLLOWING:

5 (A) PAY TO THE DEPARTMENT A LICENSE FEE OF \$50.00 FOR EACH  
6 OFFICE.

7 (B) PAY TO THE DEPARTMENT AN INVESTIGATION FEE OF \$50.00.

8 (C) FURNISH A SURETY BOND TO THE PEOPLE OF THE STATE OF  
9 MICHIGAN. THE AMOUNT OF THE SURETY BOND MUST EQUAL OR EXCEED THE  
10 TOTAL AMOUNT OF MICHIGAN CLIENTS' FUNDS IN THE APPLICANT'S OR  
11 LICENSEE'S TRUST ACCOUNT AT THE TIME OF APPLICATION FOR LICENSE  
12 OR RENEWAL, AS DETERMINED BY THE DEPARTMENT, BUT IN NO EVENT  
13 SHALL A SURETY BOND BE LESS THAN \$25,000.00 OR BE GREATER THAN  
14 \$100,000.00. THE SURETY BOND SHALL BE CONDITIONED UPON THE  
15 FAITHFUL ACCOUNTING OF ALL MONEY COLLECTED UPON ACCOUNTS  
16 ENTRUSTED TO A LICENSEE ENGAGED IN THE BUSINESS OF DEBT MANAGE-  
17 MENT OR THE LICENSEE'S EMPLOYEES AND AGENTS. THE SURETY BOND  
18 SHALL BE APPROVED BY THE DEPARTMENT. IN LIEU OF A SURETY BOND,  
19 THE DEPARTMENT MAY BY RULE PROVIDE FOR AN APPROPRIATE DEPOSIT OF  
20 CASH OR SECURITIES, A LETTER OF CREDIT, OR THE ASSIGNMENT OF COV-  
21 ERAGE OF OTHER BONDS IF THE DEPARTMENT IS SATISFIED THAT COM-  
22 PARABLE OR MORE EXTENSIVE COVERAGE RESULTS.

23 (D) FILE AN APPOINTMENT OF THE DIRECTOR AS THE AGENT OF THE  
24 APPLICANT FOR SERVICE OF PROCESS IN THIS STATE.

25 (3) SERVICE OF PROCESS UPON THE DIRECTOR SHALL BE CONSIDERED  
26 SERVICE UPON AN APPLICANT OR LICENSEE, INCLUDING AN APPLICANT WHO  
27 COMPLIES WITH OR FAILS TO COMPLY WITH SUBSECTION (2)(D).

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1       (4) ~~—(3) The~~ UNLESS SURRENDERED, REVOKED, OR SUSPENDED, A  
2 license issued under this act ~~shall expire~~ EXPIRES on December  
3 31 ~~, following its issuance unless sooner surrendered, revoked,~~  
4 ~~or suspended, but may be renewed as provided in this act~~ OF THE  
5 YEAR FOR WHICH IT IS ISSUED. A LICENSEE MAY RENEW A LICENSE  
6 BEFORE THE EXPIRATION DATE AS PROVIDED UNDER THIS ACT.

7       ~~—(4) The application shall be accompanied by an appointment~~  
8 ~~of the director as agent of the applicant for service of process~~  
9 ~~in this state. Service upon the director shall be sufficient~~  
10 ~~service upon any licensee under the act, if the person seeking~~  
11 ~~service upon the licensee shall certify to the director that a~~  
12 ~~diligent attempt was made to affect personal service upon the~~  
13 ~~licensee and that this effort was unavailing.~~

14       (5) A licensee shall ~~make~~ CREATE, maintain, and preserve  
15 accurate and complete books and records relating to ~~his~~ THE  
16 LICENSEE'S business. ~~These~~ THE books and records shall be  
17 ~~kept current~~ MAINTAINED according to generally accepted  
18 accounting ~~standards and procedures~~ PRINCIPLES. A licensee or  
19 an applicant ~~for a license~~ shall ~~furnish written notice to~~  
20 NOTIFY the ~~bureau specifying~~ DEPARTMENT IN WRITING OF the  
21 address ~~of the place~~ where ~~those~~ THE books and records are  
22 ~~to be~~ kept. ~~A change of~~ IF A LICENSEE CHANGES THE location  
23 of ~~these~~ THE BOOKS AND records, ~~shall be reported promptly to~~  
24 THE LICENSEE SHALL NOTIFY the ~~bureau~~ DEPARTMENT IN WRITING  
25 WITHIN 10 BUSINESS DAYS AFTER THE CHANGE. The director may pre-  
26 scribe by rule or order the form and contents of books and  
27 records relating to a licensee's ~~debt management~~ business.

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1       (6) ~~Financial statements shall be filed~~ AN APPLICANT SHALL  
2 FILE A FINANCIAL STATEMENT with an application for A debt manage-  
3 ment license. The director may require THAT THE financial  
4 ~~statements~~ STATEMENT BE ~~certified~~ AUDITED OR REVIEWED by an  
5 independent certified  
6 public accountant.

6       (7) IF A LICENSEE HAS A BOARD OF DIRECTORS OR THE EQUIVA-  
7 LENT, THE DIRECTOR SHALL NOT REQUIRE THAT THE LICENSEE PROVIDE  
8 INFORMATION CONCERNING A MEMBER OF THE BOARD OF DIRECTORS OR  
9 EQUIVALENT, NOR REQUIRE THAT THE MEMBER SATISFY THE EXAMINATION  
10 PROVISIONS OF THIS ACT, IF THAT MEMBER DOES NOT RECEIVE A SALARY,  
11 STOCK DIVIDEND, OR OTHER FINANCIAL BENEFIT FROM THAT CORPORATION  
12 OTHER THAN REIMBURSEMENT OF THE ACTUAL EXPENSES INCURRED IN CAR-  
13 RYING OUT THE DUTIES OF A DIRECTOR OF THAT CORPORATION.

14       Sec. 6. (1) ~~Upon the filing of the application and payment~~  
15 ~~of the fees and approval of the bond, the department shall inves-~~  
16 ~~tigate the facts and shall issue a license to an applicant if it~~  
17 ~~finds that the financial responsibility, experience, character,~~  
18 ~~and general fitness of the applicant and of the members thereof,~~  
19 ~~if the applicant is a partnership or an association, and of the~~  
20 ~~officers and directors if the applicant is a corporation, are~~  
21 ~~such as to command the confidence of the community to warrant~~  
22 ~~belief that the business will be operated fairly and honestly~~  
23 ~~within the provisions of this act.~~ UPON RECEIVING THE APPLICA-  
24 TION AND APPROVING THE FEES AND SURETY BOND, THE DEPARTMENT SHALL  
25 INVESTIGATE THE APPLICANT'S RESPONSIBILITY, EXPERIENCE, CHARAC-  
26 TER, AND GENERAL FITNESS. IF THE RESULT OF THE INVESTIGATION  
27 WARRANTS A BELIEF THAT THE BUSINESS WILL BE OPERATED FAIRLY AND

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1 HONESTLY WITHIN THE PROVISIONS OF THIS ACT, THE DEPARTMENT SHALL  
2 ISSUE A LICENSE. THE INVESTIGATION OF THE APPLICANT SHALL AT  
3 LEAST INCLUDE INVESTIGATION OF THE FOLLOWING AS APPLICABLE:

4 (A) IF THE APPLICANT IS A CORPORATION, ITS OFFICERS AND  
5 DIRECTORS.

6 (B) IF THE APPLICANT IS A PARTNERSHIP, ITS PARTNERS.

7 (C) IF THE APPLICANT IS AN ASSOCIATION, ITS OFFICERS.

8 (D) IF THE APPLICANT IS A LIMITED LIABILITY COMPANY, ITS  
9 MANAGER OR MANAGERS.

10 (E) IF THE APPLICANT IS ANY OTHER LEGAL ENTITY, ITS MANAGER  
11 OR OTHER PERSON DESIGNATED TO CONTROL THE OPERATION OF THAT LEGAL  
12 ENTITY.

13 (2) A license shall not be issued if THE INVESTIGATION  
14 REVEALS 1 OR MORE OF THE FOLLOWING:

15 (a) ~~An~~ THAT AN individual ~~applicant, or any of the~~  
16 ~~applicant's members if the applicant is a partnership or associa-~~  
17 ~~tion, or any of the applicant's officers or directors if the~~  
18 ~~applicant is a corporation~~ INVESTIGATED UNDER SUBSECTION (1)  
19 MEETS ANY OF THE FOLLOWING:

20 (i) Was ever convicted of a crime involving moral turpitude  
21 ~~which shall include~~ INCLUDING forgery, embezzlement, obtaining  
22 money under false pretenses, larceny, extortion, conspiracy to  
23 defraud, or any other ~~like~~ SIMILAR offense.

24 (ii) Violated or failed to comply with ~~a provision of~~ this  
25 act or a rule ~~or order~~ promulgated ~~or issued~~ under this act.

1       (iii) Had a license to engage in the business of debt  
2 management revoked or suspended for any reason other than failure  
3 to pay licensing fees in this state or another state.

4       (iv) Defaulted in the payment of money collected for others,  
5 including the discharge of debts through bankruptcy proceedings.  
6 The director may, at his OR HER discretion, waive this restric-  
7 tion if provided with evidence of justifiable cause for the bank-  
8 ruptcy, plus convincing evidence of the fitness of the bankrupt  
9 party to carry out his or her functions under this act.

10       (b) An individual applicant is not at least 18 years of age  
11 and a citizen of the United States.

12       (c) An applicant ~~which~~ THAT is a partnership, corporation,  
13 ~~or~~ LIMITED LIABILITY COMPANY, association, OR OTHER LEGAL  
14 ENTITY REQUIRED BY STATUTE TO OBTAIN AUTHORITY TO DO BUSINESS IN  
15 THIS STATE has not been granted authority to do business in this  
16 state.

17       (d) The applicant is an employee or owner of a collection  
18 agency as defined in ~~Act No. 361 of the Public Acts of 1974,~~  
19 ~~being sections 445.211 to 445.245 of the Michigan Compiled Laws~~  
20 SECTION 901 OF THE OCCUPATIONAL CODE, 1980 PA 299, MCL 339.901,  
21 or process serving business or in any manner is affiliated with a  
22 collection agency or process serving business. The director may,  
23 in his OR HER discretion, waive this restriction on a showing of  
24 sufficient safeguards in the operation of the collection agency.

25       (3) An ~~individual applicant~~ ~~, office manager, or~~ coun-  
26 ~~selor~~ APPLICANT SHALL PASS AN EXAMINATION ADMINISTERED BY THE  
27 DIRECTOR OR HIS OR HER DESIGNEE BEFORE THE DIRECTOR GRANTS A LICENSE  
TO THE APPLICANT UNDER THIS ACT. A COUNSELOR shall pass an  
examination within the first 180 days of  
employment administered by the director or his OR HER designee.

1 ~~which~~ THE examination may be oral or written, or partly oral  
2 and partly written, and shall be practical in nature and suffi-  
3 ciently thorough to ascertain the applicant's fitness. Questions  
4 on bookkeeping, credit adjusting, business ethics, agency, con-  
5 tracts, debtor and creditor relationships, trust funds, and the  
6 provisions of this act and rules promulgated ~~thereunder~~ UNDER  
7 THIS ACT may be included in the examination. The director may  
8 charge an examination fee of \$25.00 for administering this  
9 examination.

10 Sec. 8. ~~A licensee shall before~~ BEFORE December 1 of each  
11 year, ~~make~~ A LICENSEE SHALL FILE AN application ~~to~~ WITH the  
12 department for renewal of its license. The application shall be  
13 on the form prescribed by the department and shall be accompanied  
14 by a fee of \$50.00 for each office together with a SURETY bond IN  
15 THE SAME MANNER as ~~in the case of~~ an original application. The  
16 application shall cover each branch office ~~which~~ THAT is under  
17 the ownership and control of the applying entity. Financial  
18 statements shall be filed with THE application for renewal of  
19 ~~debt management licenses~~ A LICENSE. The director may require  
20 THAT THE financial statements BE **certified AUDITED OR REVIEWED** by an  
21 independent cer-  
22 tified public accountant.

22 Sec. 11. ~~A license shall~~ ALL OF THE FOLLOWING APPLY TO A  
23 LICENSE:

24 (a) ~~Be in~~ THE DIRECTOR SHALL PRESCRIBE the form and size  
25 ~~prescribed by the director~~ OF A LICENSE.

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1 (b) ~~Show~~ A LICENSE SHALL SHOW the name of the licensee and  
2 the address at which the business of debt management is to be  
3 conducted.

4 (c) ~~Show~~ A LICENSE SHALL SHOW the date of expiration of  
5 the license as December 31, and show other ~~matter~~ INFORMATION  
6 prescribed by the director.

7 (d) While in force, ~~be~~ THE LICENSE SHALL at all times BE  
8 conspicuously displayed in the outer office of the ~~debt manage-~~  
9 ~~ment agency~~ LICENSEE or branch ~~thereof~~ OFFICE OF THE  
10 LICENSEE.

11 (e) ~~Not be~~ A LICENSE IS NOT transferable or assignable.

12 (f) ~~Be~~ A LICENSE SHALL BE surrendered to the ~~bureau~~  
13 DEPARTMENT within 5 days after the date that the licensee either  
14 ceases TO ENGAGE IN the BUSINESS OF debt management ~~business~~ or  
15 has its license revoked.

16 Sec. 12. Before ~~any~~ A contract is ~~drawn up~~ FORMED  
17 between a licensee and a debtor, a thorough and written budget  
18 analysis shall be compiled ~~on a form approved by the director~~  
19 ~~which indicates the amount of money the debtor can reasonably pay~~  
20 ~~towards his obligations, a true copy of which shall be given~~ AND  
21 A COPY DELIVERED to the debtor. A licensee shall not accept an  
22 account unless a written and thorough budget analysis indicates  
23 that the debtor can reasonably meet the requirements required by  
24 the budget analysis. THE BUDGET ANALYSIS SHALL CONTAIN ALL OF  
25 THE FOLLOWING INFORMATION ABOUT THE DEBTOR:

26 (A) NAME AND ADDRESS.

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1 (B) MARITAL STATUS AND NUMBER OF DEPENDENTS.

2 (C) AMOUNT AND SOURCE OF ALL EMPLOYMENT COMPENSATION,  
3 PAYMENTS FROM GOVERNMENT PROGRAMS, CHILD SUPPORT AND ALIMONY PAY-  
4 MENTS, AND OTHER INCOME.

5 (D) NUMBER OF EXEMPTIONS CLAIMED ON THE DEBTOR'S MOST RECENT  
6 FEDERAL INCOME TAX RETURN.

7 (E) GROSS INCOME PER PAY PERIOD, TYPE AND AMOUNT OF ALL PAY-  
8 ROLL DEDUCTIONS, AND NET INCOME PER PAY PERIOD.

9 (F) MONTHLY HOME MORTGAGE OR RENTAL PAYMENT. IF THE HOME  
10 MORTGAGE PAYMENT DOES NOT INCLUDE AN ESCROW FOR REAL ESTATE  
11 TAXES, THE BUDGET ANALYSIS SHALL CONTAIN THE AMOUNT AND DUE DATES  
12 OF THE REAL ESTATE TAXES ON THE PROPERTY.

13 (G) TYPE AND AMOUNT OF ALL OTHER FIXED PERIODIC PAYMENTS.

14 (H) TYPE AND AMOUNT OF FOOD, CLOTHING, UTILITY, VEHICLE,  
15 INSURANCE, AND ALL OTHER LIVING EXPENSES.

16 (I) LIST OF CREDITORS INCLUDED IN THE PLAN.

17 (J) A DESCRIPTION OF AND AMOUNT OWED FOR ANY OUTSTANDING  
18 GARNISHMENTS AND JUDGMENTS.

19 (K) PERIODIC AMOUNT AVAILABLE FOR PAYMENT TOWARD A DEBT MAN-  
20 AGEMENT PLAN.

21 Sec. 13. (1) ~~A licensee shall not charge or receive a fee~~  
22 ~~until the licensee has the consent of at least 51% in number and~~  
23 ~~dollar amount of all the creditors of the debtor, or until 51% in~~  
24 ~~number and dollar amount of creditors have accepted a payment.~~

25 UPON ESTABLISHING A DEBT MANAGEMENT PLAN FOR A DEBTOR, A LICENSEE  
26 MAY CHARGE AND RECEIVE AN INITIAL FEE OF \$25.00. HOWEVER, UNLESS  
27 51% OR MORE IN NUMBER AND DOLLAR AMOUNT OF ALL THE DEBTOR'S

1 CREDITORS CONSENT TO THE DEBT MANAGEMENT PROGRAM WITHIN 45 DAYS  
2 OF ESTABLISHING THE DEBT MANAGEMENT PLAN, THE FEE SHALL BE  
3 RETURNED TO THE DEBTOR AND THE DEBTOR'S ACCOUNT CLOSED.

4 (2) ~~Consents~~ CONSENT FROM A CREDITOR shall be recorded on  
5 a separate ~~format, approved by the director and~~ FORM. THE FORM  
6 shall contain ~~a~~ ALL OF THE FOLLOWING:

7 (A) A list of ALL the creditors. ~~, the~~

8 (B) THE manner in which consent was sought. ~~, the~~

9 (C) THE date of each contact. ~~,~~

10 (D) THE NAME OF the person contacted, ~~the response~~ IF  
11 APPLICABLE.

12 (E) THE RESPONSE obtained ~~, any~~ FROM THE PERSON CONTACTED.

13 (F) ANY revised or special conditions or arrangements  
14 ~~which~~ THAT condition ~~their~~ THE consent. ~~, and the~~

15 (G) THE date ~~at~~ ON which the required ~~consents were~~  
16 CONSENT WAS secured. ~~The format shall contain other information~~  
17 ~~the director may by rule or order prescribe.~~

18 (3) ~~Consent may be sought by mail and, in the case of writ-~~  
19 ~~ten notice to a creditor without response, implied consent to the~~  
20 ~~proposed payments may be presumed 14 calendar days after mailing~~  
21 ~~the notice. In the case of payment to a creditor acceptance may~~  
22 ~~be presumed 7 calendar days after mailing the check.~~ THE CONSENT  
23 OF A CREDITOR MAY BE SOUGHT BY SENDING A NOTICE OF A DEBT MANAGE-  
24 MENT PLAN TO A CREDITOR BY AN APPROPRIATE MEANS INCLUDING BY  
25 TELEPHONE, FACSIMILE, ELECTRONIC MAIL, OR FIRST-CLASS MAIL. IF  
26 THE CREDITOR DOES NOT RESPOND WITHIN 14 DAYS AFTER THE SENDING OF

1 THE NOTICE, IT MAY BE PRESUMED THAT THE CREDITOR HAS GIVEN  
2 CONSENT.

3 (4) IF A PAYMENT UNDER THE DEBT MANAGEMENT PLAN IS SENT TO A  
4 CREDITOR, ACCEPTANCE OF THE PAYMENT OR PLAN MAY BE PRESUMED 7  
5 DAYS AFTER SENDING THE PAYMENT.

6 Sec. 14. (1) A contract between a licensee and debtor shall  
7 INCLUDE ALL OF THE FOLLOWING:

8 (a) ~~List every~~ EACH creditor to whom payments will be made  
9 and the amount ~~owing to that~~ OWED EACH creditor.

10 (b) ~~Disclose the rate and total maximum~~ THE TOTAL amount  
11 of the licensee's charges.

12 (c) ~~Disclose the actual~~ THE beginning and ending dates of  
13 the contract. ~~which shall not be longer than 24 months.~~

14 (d) ~~Disclose the~~ THE number of months and the total prin-  
15 cipal amount plus approximate interest charges required to liqui-  
16 date in full the debts, except mortgage or land contract interest  
17 payments, described in the contract. ~~The licensee shall provide~~  
18 ~~to the debtor an estimate of the affect of interest and carrying~~  
19 ~~charges on the debtor's account.~~

20 (e) ~~Disclose the~~ THE name and address of the licensee and  
21 of the debtor.

22 (f) ~~Contain such other and further~~ OTHER provisions or  
23 disclosures ~~as~~ THAT the director ~~shall determine~~ DETERMINES  
24 are necessary for the protection of the debtor and the proper  
25 conduct of business by ~~the~~ A licensee.

26 (2) ~~Distribute to the creditors of the debtor monthly all~~  
27 ~~funds received from a debtor or on behalf of the debtor, except~~

~~1 that no more than an amount equal to one month's fee plus the~~  
~~2 close out fee may be retained in the debtor's trust account at~~  
~~3 any time, unless approved by the department by rule or order.~~

4 UNLESS OTHERWISE APPROVED BY THE DEPARTMENT AND EXCEPT FOR AN  
5 AMOUNT DUE FOR 1 OR MORE MONTHLY FEES OR A CLOSEOUT FEE, A  
6 LICENSEE SHALL DISTRIBUTE TO THE CREDITORS OF THE DEBTOR, AT  
7 LEAST MONTHLY, ALL MONEY RECEIVED FROM A DEBTOR OR ON BEHALF OF A  
8 DEBTOR.

9       Sec. 15. (1) Payments received by a licensee from or on  
10 behalf of a debtor for the benefit of ~~creditors~~ A CREDITOR  
11 shall be held in trust in a separate ~~bank~~ account maintained  
12 for the benefit of ~~debtors~~ THE LICENSEE'S MICHIGAN CLIENTS AT A  
13 FINANCIAL INSTITUTION WITHIN THIS STATE WHOSE DEPOSITS ARE  
14 INSURED BY AN AGENCY OF THE UNITED STATES GOVERNMENT. ~~The~~  
15 ~~licensee shall not commingle a payment with his own property or~~  
16 ~~funds, but shall maintain a separate trust account and deposit in~~  
17 ~~that account payments received from a debtor. However, the~~  
18 ~~licensee may deposit a specified amount of its own funds in the~~  
19 ~~separate trust account upon approval of the director.~~  
20 Disbursements whether to the debtor or to the creditors of the  
21 debtor ~~—~~, shall be made from the trust account. ~~Payments~~ A  
22 PAYMENT from a debtor or on behalf of a debtor shall be deposited  
23 in the account not later than 2 business days after receipt  
24 ~~thereof~~ OF THE PAYMENT. A SWEEP ARRANGEMENT MAY BE UTILIZED IF  
25 THE ACCOUNT IS INSURED FOR 100% OR MORE OF THE BALANCE IN THE  
26 ACCOUNT.

1       (2) The trust account shall be reconciled not less than once  
2 a month. The reconciliation shall ~~consist of ascertaining~~  
3 ASCERTAIN the actual cash balance in the account and ~~comparing~~  
4 COMPARE it with the sum of the escrow balances in each debtor's  
5 account. ~~This shall be done not more than 45 days after receipt~~  
6 ~~of the monthly bank statement and shall be prepared on a form~~  
7 ~~approved by the director and shall be kept as a permanent record~~  
8 ~~of the licensee.~~ THE RECONCILIATION MAY BE DONE ELECTRONICALLY  
9 OR BY ANY OTHER APPROPRIATE METHOD AND SHALL BE DONE NOT MORE  
10 THAN 45 BUSINESS DAYS AFTER RECEIPT OF THE BANK STATEMENT. AN  
11 ELECTRONIC OR OTHER APPROPRIATE NOTATION OF THE RECONCILIATION  
12 SHALL BE KEPT AS A PERMANENT RECORD OF THE LICENSEE AND SHALL BE  
13 CONSIDERED AS IN COMPLIANCE WITH THIS SECTION. EACH TRUST  
14 ACCOUNT SHALL BE INDIVIDUALLY SCHEDULED IN A LICENSEE'S RECONCIL-  
15 IATION RECORDS.

16       (3) The trust account shall at all times have an actual  
17 ~~minimum~~ cash balance equal to OR GREATER THAN the sum of the  
18 escrow balances of each debtor's account, and failure to maintain  
19 that amount ~~shall be~~ IS cause for a summary suspension of the  
20 license.

21       (4) ~~When the~~ IF A trust account fails to contain suffi-  
22 cient funds to cover the debtor escrow balances, the licensee  
23 shall immediately upon discovery ~~,~~ notify the director by  
24 telephone, ~~or by telegraphic notice, followed by an explanatory~~  
25 ~~letter, and the remedial action taken~~ FACSIMILE, ELECTRONIC  
26 MAIL, OR OTHER METHOD APPROVED BY THE DEPARTMENT. THE LICENSEE

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20

1 SHALL ALSO PROVIDE WRITTEN NOTICE INCLUDING A DESCRIPTION OF THE  
2 REMEDIAL ACTION TAKEN.

3       Sec. 16. A licensee ~~or exempted person~~ shall DO ALL OF  
4 THE FOLLOWING:

5       (a) ~~Make, keep, and preserve for 6 years the accounts, cor-~~  
6 ~~respondence, memoranda, papers, books, and other records and make~~  
7 ~~the reports that the department by rule prescribes as necessary~~  
8 ~~or appropriate in the public interest or for the protection of~~  
9 ~~debtors and creditors. The accounts, correspondence, memoranda,~~  
10 ~~papers, books, and other records are subject at any time to rea-~~  
11 ~~sonable periodic, special, or other examinations by examiners or~~  
12 ~~other representatives of the department as the director deems~~  
13 ~~necessary or appropriate in the public interest or for the pro-~~  
14 ~~tection of the public.~~ CREATE AND MAINTAIN RECORDS OF THE  
15 ACCOUNTS, CORRESPONDENCE, MEMORANDA, PAPERS, BOOKS, AND OTHER  
16 RECORDS OF THE DEBT MANAGEMENT BUSINESS. IF THE LICENSEE ELECTS  
17 NOT TO RETAIN ORIGINAL RECORDS, THE LICENSEE MAY UTILIZE ELEC-  
18 TRONIC, PHOTOCOPY, OR COMPUTERIZED METHODS OF RECORD KEEPING.  
19 THE LICENSEE SHALL PRESERVE THE RECORDS CREATED UNDER THIS SUBDI-  
20 VISION FOR AT LEAST 6 YEARS AFTER THEY ARE CREATED.

21       (b) ~~Deliver to the debtor a completed and signed true copy~~  
22 ~~of the contract between the licensee and the debtor upon execu-~~  
23 ~~tion of the contract.~~ MAKE ALL THE RECORDS CREATED AND MAIN-  
24 TAINED UNDER SUBDIVISION (A) AVAILABLE FOR EXAMINATION BY EXAMIN-  
25 ERS OF THE DEPARTMENT.

26       ~~(c) Deliver to the debtor a receipt for a payment within 5~~  
27 ~~days after receipt of that payment. The department may waive~~

~~1 this requirement upon a showing of acceptable alternative  
2 notice.~~

~~3 (d) Provide a debtor with a written statement covering the  
4 last 12 months activity within 5 business days of a request for  
5 the statement or with a verbal accounting upon demand. The writ-  
6 ten statement or verbal accounting shall indicate the total  
7 amount received from or on behalf of the debtor, the total amount  
8 paid to each individual creditor, the total amount of the charges  
9 deducted from payments, and the amount held in reserve.~~

10 (C) UPON CONTRACTING WITH A DEBTOR, GIVE A COPY OF THE CON-  
11 TRACT TO THE DEBTOR.

~~12 (D) (e) Not more than 120 days after the date the contract  
13 is entered into, give the debtor a written statement which indi-  
14 cates the total amount received from or on behalf of the debtor,  
15 the total amount paid to each individual creditor, the total  
16 amount of the charges deducted from payments, and any amount held  
17 in reserve, a copy of this statement shall be retained in the  
18 debtor's file. The administrator may waive this requirement upon  
19 a showing of an acceptable alternative notice.~~ DELIVER A RECEIPT  
20 TO A DEBTOR UPON RECEIVING CASH FROM A DEBTOR OR WITHIN 3 BUSINESS  
21 DAYS  
22 AFTER RECEIVING A NONCASH PAYMENT FROM A DEBTOR, AND AT LEAST  
23 MONTHLY BEGINNING WITH THE FIRST MONTH AFTER CONTRACTING WITH A  
24 DEBTOR DELIVER A STATEMENT THAT INCLUDES THE DATES AND AMOUNTS  
25 RECEIVED AND DISBURSED ON BEHALF OF THE DEBTOR.

25 (E) WITHIN 5 BUSINESS DAYS AFTER A REQUEST FROM A DEBTOR,  
26 PROVIDE A WRITTEN STATEMENT THAT INCLUDES ALL OF THE FOLLOWING:

1       (i) ALL TRANSACTIONS CONCERNING THE MONEY RECEIVED FROM OR  
2 ON BEHALF OF THE DEBTOR.

3       (ii) THE TOTAL AMOUNT PAID TO EACH CREDITOR.

4       (iii) THE TOTAL AMOUNT OF CHARGES DEDUCTED FROM THE PAYMENTS  
5 RECEIVED.

6       (iv) THE AMOUNT HELD IN RESERVE.

7       (F) AT LEAST EVERY 90 DAYS AFTER CONTRACTING WITH A DEBTOR,  
8 PROVIDE A WRITTEN STATEMENT TO THE DEBTOR THAT INCLUDES ALL OF THE  
9 FOLLOWING:

10       (i) THE TOTAL AMOUNT RECEIVED FROM AND ON BEHALF OF THE  
11 DEBTOR.

12       (ii) THE TOTAL AMOUNT PAID TO EACH CREDITOR.

13       (iii) THE TOTAL AMOUNT DEDUCTED FROM THE PAYMENTS RECEIVED.

14       (iv) THE AMOUNT HELD IN RESERVE.

15       (G) AT LEAST ANNUALLY, VERIFY OR CAUSE THE VERIFICATION OF  
16 PAYMENTS TO SELECTED CREDITOR ACCOUNTS AND DO OR DESIGNATE 1 OR  
17 MORE PERSONS TO DO ALL OF THE FOLLOWING:

18       (i) REVIEW EACH DEBTOR'S ACCOUNT FILE.

19       (ii) REVIEW CHECKS PAID BY THE LICENSEE.

20       (iii) REVIEW PROCEDURES USED BY THE LICENSEE FOR PROCESSING  
21 CHECKS AND HANDLING CASH.

22       (iv) REVIEW THE COMPLAINT FILE MAINTAINED BY THE LICENSEE.

23       (v) VERIFY PAYMENTS TO SELECTED CREDITOR ACCOUNTS.

24       (vi) REVIEW SELECTED COUNSELOR RECORDS AND WORK PAPERS.

25       (H) IF A CONTRACT WITH A DEBTOR IS LAWFULLY SOLD, TRANS-  
26 FERRED, OR ASSIGNED TO A LICENSEE FROM ANOTHER LICENSEE, FURNISH  
27 TO THE DEBTOR A WRITTEN NOTICE OF THE SALE, TRANSFER, OR

1 ASSIGNMENT. THE NOTICE SHALL CONTAIN THE NAME AND ADDRESS OF THE  
2 LICENSEE AND THE NAME OF THE COUNSELOR AUTHORIZED BY THE LICENSEE  
3 TO MANAGE THE CONTRACT.

4       Sec. 17. The department may examine, without notice, the  
5 condition and affairs of a licensee. ~~or exempted person.~~ In  
6 connection with an examination, the department may examine on  
7 oath a licensee ~~or exempted person,~~ and any director, officer,  
8 employee, customer, creditor, MANAGER, MEMBER, PARTNER, or stock-  
9 holder of the licensee ~~or exempted person~~ concerning the  
10 affairs and business of the licensee. ~~or exempted person.~~ The  
11 department shall ascertain whether the licensee ~~or exempted~~  
12 ~~person~~ transacts its business in the manner prescribed by this  
13 act and the rules promulgated under this act. The licensee ~~or~~  
14 ~~exempted person~~ shall pay the actual cost of the examination as  
15 determined by the department, which fee shall be deposited in the  
16 state treasury to the credit of the department. Failure to pay  
17 the examination fee within 30 days after receipt of demand from  
18 the department shall automatically suspend the license of the  
19 licensee until the fee is paid.

20       Sec. 18. (1) ~~By contract a~~ A licensee ~~or person exempt~~  
21 ~~pursuant to section 4(2) or (4)~~ may charge a reasonable fee  
22 ~~for~~ UNDER A debt management services CONTRACT. The fees and  
23 charges of the licensee ~~with respect to a debtor's account~~  
24 shall not exceed 15% of the amount of the debt to be liquidated  
25 during the express term of the contract. The licensee ~~or person~~  
26 ~~exempt pursuant to section 4(2) or (4)~~ may require THE DEBTOR TO  
27 MAKE an initial payment ~~by the debtor~~ of ~~an amount~~ not more

1 than \$25.00, which is part of the ~~total~~ fees and charges  
2 ~~stated in the contract~~ OF THE LICENSEE. ~~This amount shall be~~  
3 ~~deducted from total fees and charges in determining the monthly~~  
4 ~~amortizable amount for subsequent fees earned.~~ THE INITIAL PAY-  
5 MENT MAY BE DEDUCTED FROM THE AMOUNT OF A SUBSEQUENT FEE THAT IS  
6 AMORTIZED, IF ANY.

7 (2) ~~in~~ EXCEPT FOR A CANCELLATION DESCRIBED IN SUBSECTION (3).  
FOR WHICH A LICENSEE MAY NOT COLLECT THE ADDITIONAL FEE DESCRIBED IN  
8 THIS SUBSECTION, IN the event of cancellation or default on the per-  
9 formance of the contract by the debtor before its successful com-  
10 pletion, the licensee ~~or person exempt pursuant to section 4(2)~~  
11 ~~or (4)~~ may collect \$25.00 in addition to fees AND CHARGES OF THE  
12 LICENSEE previously received. ~~an amount equal to \$25.00.~~ This  
13 ~~charge does not apply to total payment of the contract before~~  
14 ~~the term of the contract expires~~ \$25.00 FEE IS NOT SUBJECT TO  
15 THE 15% LIMITATION ON FEES AND CHARGES OF THE LICENSEE IN  
16 SUBSECTION (1).

17 (3) A contract ~~shall not be effective until a~~ IS IN EFFECT  
18 WHEN IT IS SIGNED BY THE LICENSEE AND THE DEBTOR AND THE debtor  
19 has made a payment to the licensee. ~~for distribution to his~~  
20 ~~creditors.~~ THE DEBTOR HAS THE RIGHT TO CANCEL THE CONTRACT  
UNTIL 12 MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE FIRST DAY THE  
CONTRACT IS IN EFFECT BY DELIVERING WRITTEN NOTICE OF CANCELLATION  
TO THE LICENSEE.

21 (4) ~~It shall be deemed a cancellation on behalf of the~~  
22 ~~debtor if the debtor fails to make payments for 60 days, or 4~~  
23 ~~consecutive payments are missed, whichever is the shorter~~  
24 ~~period.~~ In the event of extraordinary circumstances, the debtor  
25 may file with the licensee a letter of continuation of the con-  
26 tract for a specific period, which shall maintain the contract in  
27 effect, even if more than 4 consecutive payments are missed or 60  
days elapsed without payment. During this period the licensee

1 ~~may not accrue or assess fees or other charges. A letter of~~  
2 ~~continuation may not be filed with the licensee at the beginning~~  
3 ~~of a contract. The contract between the licensee and the debtor~~  
4 ~~shall clearly state the debtor's right to file a letter of con-~~  
5 ~~tinuation of the contract under this subsection. IF A DEBTOR~~  
6 ~~FAILS TO MAKE A PAYMENT TO A LICENSEE WITHIN 60 DAYS AFTER THE~~  
7 ~~DATE A PAYMENT IS DUE UNDER A CONTRACT, THE CONTRACT IS CONSID-~~  
8 ~~ERED CANCELED BY THE DEBTOR. A DEBTOR MAY FILE A LETTER OF CON-~~  
9 ~~TINUATION OF A CONTRACT EVEN IF THE DEBTOR DID NOT MAKE A PAYMENT~~  
10 ~~WITHIN 60 DAYS AFTER A PAYMENT WAS DUE. ALL OF THE FOLLOWING~~  
11 ~~APPLY TO A LETTER OF CONTINUATION OF A CONTRACT:~~

12 (A) A DEBTOR MAY FILE ONLY 1 LETTER OF CONTINUATION WITH A  
13 LICENSEE FOR ANY CONTRACT.

14 (B) A LETTER OF CONTINUATION MUST CONTAIN A DETAILED EXPLA-  
15 NATION OF THE REASON OR REASONS FOR THE MISSED PAYMENT OR  
16 PAYMENTS.

17 (C) A CONTRACT FOR WHICH A LETTER OF CONTINUATION THAT MEETS  
18 THE REQUIREMENTS OF THIS SUBSECTION IS FILED REMAINS IN EFFECT  
19 AND SUBJECT TO CANCELLATION FOR ANY FUTURE FAILURE TO MAKE A PAY-  
20 MENT OR PAYMENTS AS DESCRIBED IN THIS SUBSECTION.

21 (D) A CONTRACT BETWEEN A LICENSEE AND A DEBTOR SHALL CLEARLY  
22 PROVIDE FOR 1 LETTER OF CONTINUATION BY A DEBTOR.

23 (E) A DEBTOR MAY NOT FILE A LETTER OF CONTINUATION WITH A  
24 LICENSEE AT THE BEGINNING OF A CONTRACT.

25 (5) ~~If a licensee contracts for, receives, or makes a~~  
26 ~~charge in excess of the maximum permitted by this act or rules~~  
27 ~~promulgated under this act, except as the result of an~~

1 ~~inadvertent clerical error, the licensee shall return to the~~  
2 ~~debtor the amount of the payments received from the debtor or on~~  
3 ~~his behalf and not distributed to creditors, plus, as a penalty,~~  
4 ~~an amount equal to the amount overcharged.~~ A LICENSEE SHALL NOT  
5 CONTRACT FOR, RECEIVE, OR CHARGE A DEBTOR AN AMOUNT GREATER THAN  
6 AUTHORIZED BY THIS ACT. A PERSON WHO VIOLATES THIS SUBSECTION,  
7 EXCEPT AS THE RESULT OF AN INADVERTENT CLERICAL OR COMPUTER  
8 ERROR, SHALL RETURN TO THE DEBTOR THE AMOUNT OF THE PAYMENTS  
9 RECEIVED FROM OR ON BEHALF OF THE DEBTOR AND NOT DISTRIBUTED TO  
10 CREDITORS, AND, AS A PENALTY, AN AMOUNT EQUAL TO THE AMOUNT  
11 OVERCHARGED.

12       Sec. 19. A licensee ~~or exempted person~~ shall not DO ANY  
13 OF THE FOLLOWING:

14       (a) Purchase from a creditor any obligation of a debtor.

15       (b) Execute a contract or agreement to be signed by the  
16 debtor unless the contract or agreement is fully and completely  
17 filled in and finished.

18       (c) Lend money or credit except under a plan approved by the  
19 ~~bureau~~ DEPARTMENT.

20       (d) Take a confession of judgment or power of attorney to  
21 confess judgment against the debtor or appear as the debtor in a  
22 judicial proceeding.

23       (e) Receive or charge a fee in the form of a promissory note  
24 or other promise to pay, or receive or accept a mortgage or other  
25 security ~~for any~~ IN REAL OR PERSONAL PROPERTY FOR A fee, ~~as to~~  
26 ~~real or personal property,~~ or both.

1 (f) Take, concurrent with the signing of the contract or as  
2 a part of the contract or as part of the application for the  
3 contract, a release of an obligation to be performed on the part  
4 of the licensee.

5 (g) Offer, pay, or give any cash, fee, gift, bonus, premi-  
6 ums, reward, or other compensation to a person for referring a  
7 prospective customer to the licensee. A PAYMENT BY THE LICENSEE  
8 FOR THE LAWFUL SALE, TRANSFER, OR ASSIGNMENT OF A CONTRACT TO THE  
9 LICENSEE FROM ANOTHER LICENSEE IS NOT SUBJECT TO THIS  
10 SUBDIVISION.

11 (h) Receive any cash, fee, gift, bonus, premium, reward, or  
12 other compensation from a person other than the debtor or a  
13 person in the debtor's behalf in connection with ~~his activities~~  
14 ~~as a licensee~~ THE LICENSEE'S BUSINESS OF DEBT MANAGEMENT, except  
15 under a plan approved by order of the ~~bureau~~ DEPARTMENT.

16 (i) Disclose the debtors who have contracted with the  
17 licensee other than to the director or his OR HER authorized rep-  
18 resentative, or disclose the creditors of a debtor to anyone  
19 other than the debtor, or the director or his OR HER authorized  
20 representative, or another creditor of the debtor and then only  
21 to the extent necessary to secure the cooperation of the creditor  
22 in a debt management plan.

23 (j) ~~Advertise his services, or display, distribute, broad-~~  
24 ~~cast, or televise or permit to be displayed, advertised, distrib-~~  
25 ~~uted, broadcasted, or televised his services in any manner what-~~  
26 ~~soever wherein~~ USE OR PERMIT THE USE OF a false, misleading, or  
27 deceptive statement or representation with regard to the services

1 ~~to be performed by~~ OR CHARGES OF the licensee ~~or the charges~~  
2 ~~to be made therefor~~ IN ANY ADVERTISEMENT, DISPLAY, BROADCAST, OR  
3 OFFER OF THE LICENSEE'S SERVICES.

4 (k) Use an advertisement ~~which~~ THAT gives a telephone  
5 number or post office box without identifying the licensee and  
6 ~~his business~~ THE LICENSEE'S OFFICE address.

7 (l) Use advertisements containing ANY OF THE FOLLOWING  
8 representations: ~~that~~

9 (i) THAT the licensee will provide funds to pay bills or  
10 prevent attachments. ~~+~~

11 (ii) THAT a certain payment schedule will handle a certain  
12 amount or range of indebtedness. ~~+~~ ~~or garnishments, attachments,~~  
13 ~~reposessions~~

14 (iii) THAT GARNISHMENT, ATTACHMENT, REPOSSESSION, or loss of  
15 job will be prevented.

16 (m) Fail to provide to the debtor the full benefit of a com-  
17 promise of a debt arranged by the licensee with a creditor.

18 (n) In connection with the making of a debt management con-  
19 tract ~~+~~ or WITH operation of the debtor's account:

20 (i) Employ any device, scheme, or artifice to defraud.

21 (ii) Make any untrue statement of a material fact or omit to  
22 state a material fact necessary in order to make the statements  
23 made, in the light of the circumstances under which they are  
24 made, not misleading.

25 (iii) Engage in any act, practice, or course of business  
26 ~~which~~ THAT operates or would operate as a fraud or deceit upon  
27 any person.

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1 (O) CONDUCT THE BUSINESS OF DEBT MANAGEMENT WITHOUT A SURETY  
2 BOND, OR DEPOSIT OR ASSIGNMENT SATISFACTORY TO THE DEPARTMENT IN  
3 LIEU OF A SURETY BOND, AS DESCRIBED IN SECTION 5(2), IN PLACE.

4 Sec. 22. (1) The director may promulgate rules PURSUANT TO  
5 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL  
6 24.201 TO 24.328, make specific decisions, MAKE orders and rul-  
7 ings ~~including therein~~ THAT INCLUDE demands and findings, and  
8 take other necessary action for the implementation and enforce-  
9 ment of this act. ~~Rules promulgated by the director under this~~  
10 ~~act shall be promulgated pursuant to Act No. 306 of the Public~~  
11 ~~Acts of 1969, as amended.~~

12 (2) THE DIRECTOR MAY IN HIS OR HER DISCRETION PROVIDE FOR  
13 ELECTRONIC FILING OF ANY DOCUMENT FILED WITH THE DIRECTOR OR  
14 DEPARTMENT UNDER THIS ACT.